



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

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August 15, 2011

Dr. Roy E. Crabtree
Regional Administrator
Southeast Regional Office
National Oceanic and Atmospheric Administration
263 13th Avenue South
St. Petersburg, Florida 33701

Subject: Generic Annual Catch Limits/Accountability Measures Amendment for the Gulf of Mexico Fishery Management Council's Red Drum, Reef Fish, Shrimp, Coral and Coral Reefs, Fishery Management Plans Draft Environmental Impact Statement

Dear Dr. Crabtree:

The U.S. Environmental Protection Agency (EPA) has reviewed the subject National Oceanic and Atmospheric Administration (NOAA) Draft Environmental Impact Statement (DEIS) in accordance with our responsibilities under Section 102(2)(C) of the National Environmental Policy Act (NEPA) and Section 309 of the Clean Air Act. EPA understands that the purpose and need for the proposed Amendments is to address overfishing and achieving optimum yield (OY) for each fishery in accordance with the Magnuson-Stevens Fishery Conservation and Management Act (MSA).

It is our understanding that NOAA proposes to amend the Generic Annual Catch Limits/Accountability Measures Amendment for the Gulf of Mexico to implement measures expected to prevent overfishing and achieve optimum yield (OY) while minimizing to the extent practicable adverse social and economic effects. Long-term measures include the implementation of the following items: 1) changes to the snapper grouper fishery management unit, including the removal of some species and the development of species groups; 2) establish ABC and annual catch limits (ACL)/annual catch targets (ACT) control rules, 3) ACLs and ACTs; 4) establish a framework procedure for modifying ACLs and ACTs, control rules and management measures, 5) commercial and recreational percent allocation for black grouper; 6) accountability measures (AMs) if limits and targets are projected to be exceeded or have been exceeded; and 7) regulations necessary to ensure mortality is at or below the annual limits and targets.

EPA has a responsibility to review and comment on major Federal actions significantly affecting the quality of the human environment, including FMPs and FMP Amendments (Amendments) as developed, approved, and implemented under the MSA where those Plans and Amendments are subject to the EIS requirement of NEPA, but it should be clear that we defer to NOAA and the

Councils as to the development of fishery statistics and the relative importance of the commercial and recreational fisheries for each species.

EPA appreciates that several alternatives for proposed actions were presented and that preferred alternatives were identified in the DEIS. Overall, EPA is supportive of the preferred alternatives, but as noted in previous comment letters, EPA remains concerned regarding the confusing display of multiple preferred scenarios, alternatives and options within one preferred alternative. EPA continues to recommend that NOAA consolidate and concisely describe each preferred alternative for each action. More specific comments are attached.

EPA DEIS Rating:

Although some clarification comments were offered for this DEIS, EPA generally supports NOAA and the Council on the proposed alternatives and gives deference to their fishery expertise. Therefore, EPA rates this DEIS as "LO" (Lack of Objections). Nevertheless, we request that NOAA and the Councils directly respond to our attached comments in a dedicated section of the FEIS.

EPA appreciates the opportunity to review the DEIS. Should NOAA have questions regarding our comments on the Amendment actions, please feel free to contact Jamie Higgins at 404-562-9681 or Dan Holliman at 404/562-9531.

Sincerely,

A handwritten signature in black ink, appearing to read "Mueller", with a stylized flourish at the end.

Heinz J. Mueller
Chief, NEPA Program Office
Office of Policy and Management

U.S. ENVIRONMENTAL PROTECTION AGENCY ENVIRONMENTAL IMPACT STATEMENT (EIS) RATING SYSTEM CRITERIA

EPA has developed a set of criteria for rating Draft EISs. The rating system provides a basis upon which EPA makes recommendations to the lead agency for improving the draft.

RATING THE ENVIRONMENTAL IMPACT OF THE ACTION

- § LO (Lack of Objections): The review has not identified any potential environmental impacts requiring substantive changes to the preferred alternative. The review may have disclosed opportunities for application of mitigation measures that could be accomplished with no more than minor changes to the proposed action.
- § EC (Environmental Concerns): The review has identified environmental impacts that should be avoided in order to fully protect the environment. Corrective measures may require changes to the preferred alternative or application of mitigation measures that can reduce the environmental impact.
- § EO (Environmental Objections): The review has identified significant environmental impacts that should be avoided in order to adequately protect the environment. Corrective measures may require substantial changes to the preferred alternative or consideration of some other project alternative (including the no action alternative or a new alternative). The basis for environmental objections can include situations:
 - 1. Where an action might violate or be inconsistent with achievement or maintenance of a national environmental standard;
 - 2. Where the Federal agency violates its own substantive environmental requirements that relate to EPA's areas of jurisdiction or expertise;
 - 3. Where there is a violation of an EPA policy declaration;
 - 4. Where there are no applicable standards or where applicable standards will not be violated but there is potential for significant environmental degradation that could be corrected by project modification or other feasible alternatives; or
 - 5. Where proceeding with the proposed action would set a precedent for future actions that collectively could result in significant environmental impacts.
- § EU (Environmentally Unsatisfactory): The review has identified adverse environmental impacts that are of sufficient magnitude that EPA believes the proposed action must not proceed as proposed. The basis for an environmentally unsatisfactory determination consists of identification of environmentally objectionable impacts as defined above and one or more of the following conditions:
 - 1. The potential violation of or inconsistency with a national environmental standard is substantive and/or will occur on a long-term basis;
 - 2. There are no applicable standards but the severity, duration, or geographical scope of the impacts associated with the proposed action warrant special attention; or
 - 3. The potential environmental impacts resulting from the proposed action are of national importance because of the threat to national environmental resources or to environmental policies.

RATING THE ADEQUACY OF THE ENVIRONMENTAL IMPACT STATEMENT (EIS)

- § 1 (Adequate): The Draft EIS adequately sets forth the environmental impact(s) of the preferred alternative and those of the alternatives reasonably available to the project or action. No further analysis or data collection is necessary, but the reviewer may suggest the addition of clarifying language or information.
- § 2 (Insufficient Information): The Draft EIS does not contain sufficient information to fully assess environmental impacts that should be avoided in order to fully protect the environment, or the reviewer has identified new reasonably available alternatives that are within the spectrum of alternatives analyzed in the Draft EIS, which could reduce the environmental impacts of the proposal. The identified additional information, data, analyses, or discussion should be included in the Final EIS.

§ 3 (Inadequate): The Draft EIS does not adequately assess the potentially significant environmental impacts of the proposal, or the reviewer has identified new, reasonably available, alternatives, that are outside of the spectrum of alternatives analyzed in the Draft EIS, which should be analyzed in order to reduce the potentially significant environmental impacts. The identified additional information, data, analyses, or discussions are of such a magnitude that they should have full public review at a draft stage. This rating indicates EPA's belief that the Draft EIS does not meet the purposes of NEPA and/or the Section 309 review, and thus should be formally revised and made available for public comment in a supplemental or revised Draft EIS.

U.S. Environmental Protection Agency Advisory Comments:

1. Display of Preferred Alternatives: EPA appreciates the complexity of determining the best alternative for each action; however, the description and display of each preferred alternatives is very confusing. For example, Action 2. Removal of Stocks from Reef Fish Fishery Management Plan (pg 30) outlines two Preferred Alternatives and Preferred Alternative 3 lists two Preferred Options (Preferred Option b and Preferred Option c). EPA agrees it is informative to demonstrate how each Preferred Alternative and Options were screened; however, EPA recommends NOAA consolidated the Preferred Alternatives and Preferred Options into one concise and less confusing Preferred Alternative for each action. On page 107, NOAA does a good job of combining Alternative 2 and Alternative 3 into Preferred Alternative 4. In this specific case, the discussion and rationale for selecting Preferred Alternative 4 is much easier for the public to understand.

2. Stakeholder Involvement: On page 115, NOAA states, “a rigorous process that involved advice and input by numerous state and federal agencies and the public at large.” What was involved in this rigorous process? The DEIS doesn’t discuss the stakeholder involvement process or public involvement process. EPA does appreciate NOAA listing the public meeting notes, but it is unclear how the public meeting was conducted. Was it an open forum? How did the public learn of the meetings? Were stakeholders invited to participate in invitation only meetings? How were Environmental Justice communities engaged? EPA recommends that NOAA better describe both the Stakeholder Involvement and Public Outreach processes in the FEIS.

3. Economic Analysis:

a. On page 125, Table 3.3.1.1, NOAA displays average annual ex-vessel value and average annual economic activity of commercial fisheries; however, there isn’t any sort of analysis of the preferred alternatives impact on commercial fisheries. EPA recommends NOAA describe possible economic impacts on commercial fisheries. Additionally, EPA recommends that NOAA project these impacts in an additional column in Table 3.3.1.1.

b. On page 136, third paragraph, NOAA states that there are no comparable estimated available for Texas. This lack of data for Texas is also reflected in various tables (pgs 138-141). NOAA doesn’t explain why there is a lack of information or data for Texas. EPA recommends that NOAA better explain the why there is a lack of data for Texas in the FEIS.

4. On page 143, first paragraph, NOAA states that a more detailed description of Environmental Justice (EJ) will be included, but doesn’t cross reference the location of this information. EPA recommends that NOAA cross reference the EJ section by section number and page number.

5. Social Vulnerability:

a. On page 153, NOAA discusses the potential socioeconomic impacts relating to the Preferred Alternatives; however, the analysis is restricted to only a small number of coastal counties. NOAA doesn’t sufficiently describe why the analysis is limited to just those few counties. Also, NOAA mentions the Social Vulnerability Index (SoVI) as a methodology to soon replace the current methodology. In concept, the SoVI sounds like a rational approach to

determining socioeconomic impacts, but the data being used is 2000 census data. Why wouldn't NOAA use the latest 2010 census data for the SoVI? EPA recommends NOAA better explain the rationale for using just few coastal counties for the social vulnerability analysis and socioeconomic impacts.

b. On page 155, Table 3.4.31 NOAA discusses marine related employment per coastal county. For meaningful comparisons, EPA recommends NOAA add a column totaling each sector to give a more holistic regional view. EPA also recommends NOAA use 2010 Census data rather than using 2000 Census Data and projects. For example, NOAA states that Escambia County had a total population in 2000 of 294,410 and projected to have a grown population by 2007 of 304,280; however, the actual 2010 Census data shows that Escambia has a population (as of 2010) of 297,619.

6. On page 246, third paragraph, NOAA states that mitigation, monitoring and enforcement measures are described in the cumulative effects analysis of Amendment 30b (GMFMC 2008b). EPA recommends that NOAA provide a link to this document in the FEIS so that the public and resource agencies can conveniently review these measures.

7. On page 253, within the *Endangered Species Act* (ESA) section, NOAA discusses the ESA determinations process and states that a summary of the most recent reef fish fishery Biological Opinion can be found in the Cumulative Effects Section. EPA recommends that NOAA clearly state and describe ESA determinations within the ESA section of the FEIS. If the formal or informal consultation hasn't been completed, then EPA recommends that NOAA briefly discuss the status of the ESA determination process.